

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEVEN BRAUNSTEIN,

Petitioner,

vs.

JAMES COX, *et al.*,

Respondents.

Case No. 3:11-cv-00587-LRH-WGC

ORDER

This closed action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. Before the Court is petitioner's most recent motion for reconsideration filed June 23, 2017. (ECF No. 74).

On August 22, 2012, this Court dismissed the petition with prejudice on the ground that all claims were procedurally defaulted. (*Id.*). This Court denied petitioner a certificate of appealability. (*Id.*). Judgment was entered on August 22, 2012. (ECF No. 38). Petitioner appealed this Court's order and judgment. (ECF No. 39). On October 3, 2012, the Ninth Circuit Court of Appeals denied petitioner's request for a certificate of appealability and dismissed the appeal. (ECF No. 43). Petitioner filed a petition for a writ of certiorari, and on January 22, 2013, the United States Supreme Court denied the petition. (ECF No. 46).

Petitioner has previously filed at least 15 separate motions seeking reconsideration and other post-judgment relief. (ECF Nos. 47, 48, 51, 53, 55, 57, 59, 62, 63, 64, 65, 66, 69, 70, 72). By order filed March 17, 2017, the Court denied petitioner's motions for reconsideration and post-judgment

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1 relief. (ECF No. 73). The Court further directed petitioner to refrain from filing additional
2 frivolous post-judgment motions. (*Id.*).

3 On June 23, 2017, petitioner filed a motion for reconsideration pursuant to Rule 60(b),
4 claiming “fraud.” Under Fed. R. Civ. P. 60(b) the court may relieve a party from a final judgment
5 or order for the following reasons:

6 (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly
7 discovered evidence that, with reasonable diligence, could not have
8 been discovered in time to move for a new trial under Rule 59(b);
9 (3) fraud (whether previously called intrinsic or extrinsic),
10 misrepresentation, or misconduct by an opposing party; (4) the
judgment is void; (5) the judgment has been satisfied, released or
discharged; it is based on an earlier judgment that has been reversed
or vacated; or applying it prospectively is no longer equitable; or
(6) any other reason that justifies relief.

11 A motion under Rule 60(b) “must be made within a reasonable time.” Fed. R. Civ. P. 60(c)(1).
12 Relief based on mistake, newly discovered evidence, or fraud must be sought within one year of
13 final judgment. Fed. R. Civ. P. 60(c)(1).

14 Petitioner’s present motion repeats arguments that this Court lacked jurisdiction to rule on
15 his federal habeas petition. This Court has repeatedly rejected petitioner’s assertions of fraud and
16 lack of jurisdiction in prior orders. Petitioner’s motion for reconsideration is denied. Additionally,
17 as discussed in the Court’s order of March 17, 2017, petitioner’s repeated filing of frivolous and
18 duplicative post-judgment motions leads this Court to find that petitioner’s actions are a malicious
19 abuse of the writ process. The Court directs petitioner to file no further documents in this closed
20 case. Any further documents filed by petitioner in this case shall be stricken and petitioner will be
21 subject to the imposition of sanctions.

22 **IT IS THEREFORE ORDERED** that petitioner’s motion for reconsideration (ECF No. 74)
23 is **DENIED**.


24 **IT IS FURTHER ORDERED** that petitioner is **DENIED A CERTIFICATE OF**
25 **APPEALABILITY** as to any issues raised in the motion denied herein.

26 **IT IS FURTHER ORDERED** that petitioner shall file no further documents in this
27 closed action.

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1 **IT IS FURTHER ORDERED** that any further documents filed by petitioner in this
2 **action shall be stricken and petitioner will be subject to the imposition of sanctions.**

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4 DATED this 14th day of July, 2017.

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8 LARRY R. HICKS
9 UNITED STATES DISTRICT JUDGE
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